

REMARKS

This paper is submitted in reply to the Office Action mailed March 3, 2008.

In the Office Action, claims 1-8, 10, 11, 46 and 48-52 are listed as pending, claims 48-51 are listed as withdrawn from consideration and claims 1-8, 10, 46 and 47 are listed as rejected. Applicants respectfully request reconsideration and entry of the foregoing amendments.

Applicants thank the Examiner for rejoining claim 11.

The Examiner has rejected claims 1-8 and 10-11 under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as his invention. Applicants respectfully traverse this rejection. Applicants address the Examiner's reasons in the order listed in the instant office action.

1. The Examiner states:

[I]t is recited that 'R_d, R_e and the nitrogen atom to which they are attached together form...heterobicyclic group; R_d and R_e are each, independently, alkanoyl or -K-D'...The above definitions of R_d and R_e are confusing because it is not clear how the terms together with the nitrogen atom for a cyclic group as well as independently represent other groups.

Applicants have amended claim 1 to insert the "or" which was inadvertently deleted in the amendment made October 31, 2007 between the two definitions of R_d and R_e.

2. The Examiner states:

In claim 1, in the definition of L, the first term "N(C(O)OR)-" is not represented as a bivalent group. Since L represents a bivalent group, the above term should be written as "-N(C(O)OR)-".

Applicants have amended claim 1 to insert "-- before "N(C(O)OR)-".

3. The Examiner states "[i]n claim 1, in the definition of L, the term "-CH(NR)-" is not understood". Without conceding to the correctness of the rejection and solely to expedite prosecution of the instant application, Applicants have amended claim 1 to delete "-CH(NR)-" from the definition of L.

4. The Examiner states that in claim 1 the recitation

...heterocycloalkyl; or L is -NRC(O)-, -NRC(O)O-, -S(O)₂NR-, -C(O)NR- or -OC(O)NR- and R₃ is substituted or unsubstituted alkyl, substituted or unsubstituted alkenyl or substituted or unsubstituted aralkyl;

provided that j is 0 when L is $-\text{CH}_2\text{NR}-$, $-\text{C}(\text{O})\text{NR}-$ or $-\text{NRC}(\text{O})$ and R_3 is azacycloalkyl or azaheteroaryl

is very confusing. Applicants respectfully point out that the text preceding the proviso, "L is $-\text{NRC}(\text{O})\dots$ " is preceded by "or" and is an alternative definition for L and R_3 in combination.

The Examiner also states:

The proviso statement lacks antecedent basis because when L is $-\text{C}(\text{O})\text{NR}-$ or $-\text{NRC}(\text{O})-$, R_3 is defined to be alkyl, alkenyl or aralkyl and therefore, it is not understood how R_3 is recited to be azacycloalkyl or azaheteroaryl.

Applicants respectfully point out that this proviso was present in the application as originally filed. With respect to the terms "azacycloalkyl" and "azaheteroaryl", Applicants respectfully point out that the definition of R_3 includes heteroaromatic groups, which encompass azaheteroaryl and heterocycloalkyl groups, which encompasses azacycloalkyl groups. One of ordinary skill in the art knows that the prefix "aza" indicates that a ring contains a nitrogen atom. Therefore, azacycloalkyl and azaheteroaryl denote a subgroup of moieties in heteroaromatic and heterocycloalkyl. This proviso is similar to a proviso which would exclude specific moieties such as pyrrolidine or pyrimidine. Therefore, there is no lack of antecedent basis for the proviso.

5. The Examiner states:

Claim 5 recites the limitation 'ring A is selected from...a substituted naphthalyl,...and a substituted indole' in lines 2-3. There is insufficient antecedent basis for this limitation in claim 1 on which claim 5 is dependent.

Applicants have amended claim 5 to delete "naphthalyl" and "indole" from the definition of ring A.

6. With respect to claim 11, the Examiner states:

...it is recited 'L is $-\text{NHSO}_2\text{R}-$, $-\text{NHC}(\text{O})\text{O}-$ or $-\text{NHC}(\text{O})\text{R}-$; where R is H, an acyl group...'. This recitation is confusing because the terms $-\text{NHSO}_2\text{R}-$ and $-\text{NHC}(\text{O})\text{R}-$ do not appear to represent bivalent groups because R is a monovalent substituents group such as H.

Applicants have amended claim 11 to delete "-H" from the definition of R.

Based upon the foregoing, the rejections of claims 1-8 and 10-11 under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly

claim the subject matter which applicant regards as his invention is obviated and should be withdrawn.

The Examiner has maintained the rejection of claims 1-8, 10 and 46 under 35 U.S.C. §103(a) over Calderwood et al., WO 98/41525. Applicants respectfully traverse this rejection and maintain the arguments presented in the Replies filed November 30, 2004, March 26, 2004, July 11, 2003, February 11, 2003, the RCE filed October 24, 2005, the Reply filed May 11, 2006, the Reply filed January 26, 2007, The Reply filed March 19, 2007 and the Request for Continued Examination filed May 22, 2007.

Without conceding to the correctness of the Examiner's rejections and for the sole purpose of expediting prosecution of the instant application and to place it in condition for allowance, Applicants have amended claim 1 to delete "hydrogen" from the definition of R_c and "-N(R)S(O)O-" from the definition of L.

Based upon the foregoing, the rejection of claims 1-8 and 10-11 under 35 U.S.C. §103(a) over Calderwood et al., WO 98/41525, is obviated and should be withdrawn.

The Examiner has maintained the rejection of claims 1-8, 10, 11, 46 and 52 on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 1-63 of U.S. Patent No. 6,713,474. Upon receiving a Notice of Allowability wherein the rejection of claims 1-8, 10, 11, 46 and 52 under the on the ground of nonstatutory obviousness-type double patenting over claims 1-63 of U.S. Patent No. 6,660,744 is the only remaining issue Applicants will address the issue of nonstatutory obviousness-type double patenting over claims 1-63 of U.S. Patent No. 6,713,474.

In view of the foregoing remarks, Applicants believe that claims 1-8, 10 and 46, 47 and 52 are in condition for allowance. Prompt and favorable action is earnestly solicited.

No additional claims fees are due for the instant amendment since the total number of claims after entry of the amendments hereinabove is not more than the total number of claims that Applicants have paid for to date.

If the Examiner believes that a telephone conference would advance the condition of the instant application for allowance, Applicants invite the Examiner to call Applicants' agent at the number noted below.

Respectfully submitted,

Date: June 2, 2008



Gayle B. O'Brien
Agent for Applicants
Reg. No. 48,812

Abbott Bioresearch Center
100 Research Drive
Worcester, MA 01605
(508) 688-8053